



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 19, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0187

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 – Bias Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Subject alleged that the Named Employee arrested the Subject because he was a young Black male.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 – Bias Free Policing 2. Officers Will Not Engage in Bias-Based Policing

Officers, including Named Employee #1 (NE#1), were dispatched to a domestic violence (DV) disturbance call. During this call, a male – later identified as the Subject – could be heard saying: "Ow...Ow...Ow...stop hitting me...stop hitting me." The Subject then hung up the phone. When the 911 operator called back, the Subject said that there was nothing going on; however, the dispatcher told him that, due to the DV nature of the incident, police still needed to come to the scene and investigate.

The officers responded to the apartment building from which the call originated but could not locate either of the involved parties. After conducting a search, the officers went outside and observed a vehicle with its lights on. The officers saw that the Subject and a woman – the Complainant in this case – were inside. The officers made contact with them and the Subject acknowledged that he had called the police earlier. He said that everything was okay, but the officers told him that they still needed to investigate. Both individuals got out of the car and spoke with the officers.

The Complainant told the officers that no DV assault had occurred and said that the Subject called 911 as a joke. She provided her identification. Another officer spoke with the Subject and he was asked to provide his identification. He first declined to do so and then gave a name and birthdate. An officer ran that through the system with negative results. The Subject was told that it was a crime to give a false name. He was again asked for his identity and he then provided his actual name and birthdate. He said that he gave a false name because he did not like interacting with the police. At that point, NE#1 made the decision to arrest the Subject for false reporting and took him into custody.



After the Subject was arrested, the Complainant alleged that he was only arrested because he was a “young Black man.” The officers notified a supervisor who came to the scene. The supervisor spoke with the Complainant and she repeated her belief that NE#1 had arrested the Subject because he was a young Black male. She asked that this matter be referred to OPA and the supervisor complied with her request. This investigation ensued.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

Based on OPA’s evaluation of the evidence in this case – most notably, the BWV, OPA finds no basis to conclude that NE#1 engaged in biased policing. The video indicated that the officers located the Subject and the Complainant and determined that the Complainant had, admittedly, called SPD to report an assault. While he claimed that he was joking and wanted to recant, this was, at the very least, false reporting. In addition, the Subject, again admittedly, provided a false name. This provided an additional basis for the detention and ultimate arrest. OPA’s review of this incident yields the conclusion that the Subject’s conduct, not his race, was the basis for his arrest.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**